

May 21, 2010

The Honorable Julius Genachowski, Chair  
Federal Communications Commission  
c/o Commission's Secretary  
236 Massachusetts Avenue, N.E., Suite 110  
Washington, D.C. 20002

**Re: Comments – Proposed Rule - Telephone Consumer Protection  
CG Docket No. 02-278  
FCC 10-18**

Dear Chairman Genachowski:

The National School Boards Association (NSBA), representing over 95,000 local school board members through our state school boards associations across the nation is pleased to submit comments on proposed revisions to rules under the *Telephone Consumer Protection Act* (TCPA) that would harmonize those rules with the Federal Trade Commission's (FTC's) recently amended Telemarketing Sales Rule.

NSBA recognizes the Federal Communications Commission's (FCC) effort and commitment to harmonize rules in order to remove possible duplicative or conflicting requirements with regard to communications to wireless devices. In the process of doing so, NSBA urges the FCC to: 1) retain provisions exempting non-profit entities and non-commercial, informational messages; and 2) clarify that the rules are not applicable to school districts. Our rationale for recommending this clarification is contained in paragraph 3 of the NPRM approved by the FCC on January 20, 2010 (emphasis added):

3. We note that the rule revisions proposed herein would make no changes with respect to categories of prerecorded message calls that are not covered by our TCPA rules. Those categories include *calls by or on behalf of tax-exempt non-profit organizations*; calls for political purposes, including political polling calls and other calls made by politicians or political campaigns; and *calls for other noncommercial purposes, including* those that deliver purely "informational" messages – for example, prerecorded calls that notify recipients of a workplace or school closing. In addition, because the TCPA's restrictions on prerecorded messages do not apply to calls initiated for emergency purposes, the proposed rule revisions would not affect messages sent to consumers to alert them to emergency situations, including, for example, emergency messages permitted by the WARN Act and/or the Commercial Mobile Alert System (CMAS).

The education community is acutely aware of potential impact if the NPRM was in some manner interpreted to apply to school district communications. Delivery restrictions described in section 64.1200 for example, require obtaining written permission for automated calls to wireless devices – including a signature. It would be enormously difficult for school districts to comply with these restrictions when many must reduce instructional and administrative staff due to declining revenues. The growing number of students, parents and other caretakers using wireless devices for either



*Working with and  
Through our State  
Associations, NSBA  
Advocates for Equity  
and Excellence in  
Public Education  
through School  
Board Leadership*

---

**Office of Advocacy**

- *Earl C. Rickman, III*  
*President*
- *Anne L. Bryant*  
*Executive Director*
- *Michael A. Resnick*  
*Associate  
Executive Director*

primary or secondary contact makes it all but inevitable that notifications about schedules, parent engagement activities, and school events will be issued to wireless devices.

NSBA believes that consumer protection policy is not intended to discourage communications between school districts and the students and families they serve, and recommends clarification in the final document. Thank you for the opportunity to share our concerns and recommendations. Questions regarding our comments may be directed to Lucy Gettman, director of federal programs at 703-838-6763; or by e-mail at [lgettman@nsba.org](mailto:lgettman@nsba.org).

Sincerely,

A handwritten signature in black ink that reads "Michael A. Resnick". The signature is written in a cursive, flowing style.

Michael A. Resnick  
Associate Director

MAR: lg/kc

G:\Adv\Regulations\2010\05.21.10FCCTelephoneConsumerComments